

### Remarks

The various parts of the Office Action (and other matters, if any) are discussed below under appropriate headings.

#### ***Claim Rejections - 35 USC § 103***

Independent claims 1, 20 and 24 have been amended for clarity. The claimed invention includes a central control unit that is *configured to* couple at least two medically applicable instruments via control apparatuses having different manufacturer-specific input and/or output specifications. The claimed central control unit is *configured to* convert different manufacturer-specific display information and/or image formats from plural control apparatuses into a predetermined or unified image format. The central control unit recited in claim 1 includes a processor that receives inputted control signals and converts the control signals into formats corresponding to the respective at least two control apparatuses having different manufacturer-specific formats.

Wang has not been found to disclose or fairly suggest, in a combination similar to that set forth in claims 1, 20 or 24, a central control unit configured to convert different manufacturer-specific display information and/or image formats from plural control apparatuses into a predetermined or unified image format.

At pages 7-8 of the August 1, 2006 Office Action<sup>1</sup>, the Examiner states "[t]he system of Wang et al. is capable of controlling multiple apparatuses and systems from different manufacturers and thus the control apparatuses are inherently capable of having different input and/or output specifications." (Emphasis added).

The rejections of claims 1, 20 and 24 based on Wang are flawed for at least two reasons.

First, the Examiner's statement on pages 7-8 of the November 1, 2006 Office Action is unsupported by Wang in that Wang has not been found to make any mention of a device that is configured to control multiple apparatuses from different manufacturers, let alone, the claim recitation of a central control unit configured to convert different manufacturer-specific display information and/or image formats from plural control apparatuses into a predetermined or unified image format. In other

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<sup>1</sup> These arguments are incorporated in the present Office Action.

words, claims 1, 20 and 24 each recite structure not disclosed or fairly suggested by Wang.

Rather, Wang has been found to discuss a master controller and slave controllers. It is respectfully submitted that the Wang's disclosure of a master controller and associated slave controllers is insufficiently specific to support the Examiner's rejection of independent claims 1, 20 and 24, especially in light of the current clarifying amendments. For at least this reason, the rejections should be withdrawn.

Second, based on the Examiner's comments set forth on pages 7-8 of the August 1, 2006 Office Action, the Examiner appears to be relying on the theory of inherency, at least in part, to reject claims 1, 20 and 24. It is respectfully submitted that the Examiner has failed to meet the burden imposed by MPEP 2112 for a rejection based on inherency. "The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish inherency of that result or characteristic." MPEP 2112 IV *citing In re Rijckaert*, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). MPEP 2112 IV continues with the following instructions.

To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' *In re Robertson*, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

"In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). It is respectfully submitted that the references of record, taken alone or in combination, are not understood to inherently disclose or suggest the claimed invention. Further, it is respectfully submitted that the Examiner has not met the burden imposed by MPEP 2112 for a rejection based on inherency.

None of the other references relied upon in the Office Action have been found to cure the above-described deficiencies of Wang. As such, Wang, taken alone or in combination with Moll or Cochran, fails to disclose every structural element recited in independent claims 1, 20 and 24. For at least the foregoing reasons, the rejections of

independent claims 1, 20 and 24, and the claims dependent therefrom, should be withdrawn.

In addition, claim 1 recites a central input device coupled to the central control unit via a bus and a central output display device coupled to the central control unit via a bus, wherein the bus provides electrical separation between the central input device and/or the central output display device and the central control unit. Similarly claim 20 recites a common output display device coupled to the central control unit via a bus, wherein the bus provides electrical separation between the common output display device and the central control unit.

The Examiner asserts generally that "Wang teaches the use of busses to transfer data (see Col. 7, Lines 40-50)" and "Moll et al. also disclose the use of busses to couple devices (See Col. 26, Lines 45-56)." For convenience of reference, the above-cited portions of Wang and Moll appear below.

If a select command is given for a device that is directly connected to the master 12, then the information is passed to the decoder in the master 12 and the decoder 40 generates a packet 52 of information. The packet includes the address of the device to be operated, a code representing the specific operation, and a checksum to ensure that as the packet 52 is transferred over various busses, the data does not become corrupted. Such information packaging is well-known although the specific package set out hereinabove has heretofore not been utilized to control one of a plurality of medical devices. Data checking using a checksum is also well-known in the art.

Wang, (col. 7, lines 40-50)

A variety of adaptations of the exemplary control system will be obvious to those of skill in the art. For example, while the exemplary embodiment includes a single master bus and a single slave bus, one or both of these individual busses may be replaced with a plurality of busses, or they may be combined into a single bus. Similarly, while the exemplary servocycle time for an individual control pair is preferably about 1,000 micro sec or less, and ideally about 750 micro sec or less, the use of higher speed processing equipment may provide servocycle times which are significantly faster.

Moll, (col. 26, lines 45-56)

As best understood, it is the Examiner's position that a general mention of busses is sufficient to anticipate or render obvious the structure recited in claim 1 and the structure recited in claim 20. It is respectfully submitted that the above-cited general discussion of busses is insufficiently specific to anticipate or render obvious the claim 1 recitation of "a central input device coupled to the central control unit via a bus and a central output display device coupled to the central control unit via a bus, wherein

the bus provides electrical separation between the central input device and/or the central output display device and the central control unit" and the claim 20 recitation of "a common output display device coupled to the central control unit via a bus, wherein the bus provides electrical separation between the common output display device and the central control unit."

For at least these additional reasons, the rejections of independent claims 1 and 20 should be withdrawn.

In addition, other dependent claims recites features not disclosed or fairly suggested by the references relied upon in the Office Action. For example, new dependent claim 26 recites the system of claim 1, wherein the central input device, the central output device, and the at least two medically applicable instruments are positioned in an operating theater, and the central control unit and the at least two control apparatuses are positioned outside the operating theater.

In rejecting this claim recitation, which was previously incorporated into claim 1, the Examiner relies on Moll to cure the deficiencies of Wang. Page 3 of the Office Action states, "Wang et al. are silent with respect to wherein the central control unit and at least two control apparatuses are positioned outside the operating theater." In relying on Moll to cure the deficiencies of Wang, the Examiner is reminded that the overall teachings of Moll must be considered.

In this regard, the Examiner is reminded that MPEP 2142.02 VI mandates that "prior art must be considered in its entirety, including disclosures that teach away from the claims". MPEP 2141.32 VI goes on to instruct that "[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Not only does Moll fail to cure the deficiencies of Wang with respect to what is recited in claim 26, Moll is believed to teach away from what is recited in claim 26. Moll has been found to disclose multiple satellite operating rooms (952), (954), (956) along with a central master control operating room (950). The satellite operating rooms are connected to the central master control console. Moll appears to disclose a central output device<sup>2</sup> within master control operating room (950), and therefore, outside of the operating theater. In addition, Moll has not been found to disclose control apparatuses

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<sup>2</sup> See col. 46, lines 10-18, which states, "OR 950 might additionally have a bank of video monitors showing the level of activity in each of the Ors."

(which are coupled to the medically applicable apparatuses) outside of the operating theater. As such, Moll fails to cure the deficiencies of Wang with respect to claim 26

For at least these reasons, claim 26 is in condition for allowance.

### Telephone Interview

In the interests of advancing this application to issue and compact prosecution, it is respectfully requested that the Examiner telephone the undersigned to discuss any of the foregoing with which there may be some controversy or confusion or to make any suggestions that the Examiner may have to place the application in condition for allowance.

## Conclusion

In view of the foregoing, request is made for timely issuance of a notice of allowance.

Respectfully submitted,

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